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UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) PACA Docket No. D-05-0010
)
Dom's Wholesale and Retail Center, Inc.,)
)
)
Respondent)

Consent Decision and Order

This is a disciplinary proceeding under the Perishable Agricultural Commodities Act, 1930, as amended (7 U.S.C. § 499a et seq.) (hereinafter, "PACA"). The complaint filed herein, on May 10, 2005, alleged that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA by failing to make full payment promptly to 42 sellers for purchases of 333 lots of perishable agricultural commodities in the course of interstate and foreign commerce in the amount of \$1,530,116.65 during the period July 2003 through April 2004. The complaint sought the issuance of an order finding that Respondent had committed willful, flagrant and repeated violations of section 2(4) of the PACA, and publication thereof.¹

The complaint was served upon Respondent, and Respondent submitted an answer in which it generally denied the allegations of the complaint pertaining to its failure to make full payment promptly. On March 2, 2007, Complainant filed a Motion for an Order Requiring Respondent to Show Cause Why a Decision Without Hearing Should Not Be Issued. The time for Respondent to file a response to Complainant's motion has not yet expired.

The parties have now agreed to the entry of a Consent Decision and Order as set forth

¹ Complainant sought publication of the facts and circumstances surrounding Respondent's PACA violations, rather than revocation of Respondent's PACA license, as Respondent's PACA license terminated on April 17, 2005, pursuant to section 4(a) of the PACA (7 U.S.C. § 499a), when Respondent failed to pay the annual required fee.

herein. Therefore, this Consent Decision and Order is entered without further procedure or hearing pursuant to the consent decision provisions of the Rules of Practice Governing Formal Adjudicatory Proceedings Instituted by the Secretary Under Various Statutes (7 C.F.R. § 1.130 et seq.; hereinafter "Rules of Practice") applicable to this proceeding (7 C.F.R. §1.138).

Findings of Fact

1. Respondent is a corporation organized and existing under the laws of the state of New York. Its mailing address is 250 Coster Street, Bronx, New York 10474-7301.
2. At all times material herein, Respondent was licensed under the provisions of the PACA. Pursuant to the licensing provisions of the PACA, license number 1968-1813 was issued to Respondent on April 17, 1968. This license terminated on April 17, 2005, pursuant to section 4(a) of the PACA, when Respondent failed to pay the required annual fee.
3. The complaint alleged that during the period July 2003 through April 2004, Respondent purchased, received, and accepted, in interstate and foreign commerce, from 42 sellers, 333 lots of fruits and vegetables, all being perishable agricultural commodities, and failed to make full payment promptly of the agreed purchase prices, in the total amount of \$1,530,116.65.
4. Respondent has paid in full each of the 42 sellers listed in the complaint for the perishable agricultural commodities Respondent purchased, received, and accepted in interstate commerce from those sellers.

Conclusions

Respondent admits the jurisdictional allegations of the complaint, neither admits nor denies the remaining allegations of the complaint, and agreed to the following order.

Order

Respondent is ordered to pay a civil penalty in the amount of \$70,000. The civil penalty will be paid in certified or "bank check" form, payable to the United States Treasury.

Respondent will send the civil penalty payment to the following address: United States Department of Agriculture, PACA Branch, 1400 Independence Ave., Room 2095, South, Washington, D.C. 20250.


This order shall become final upon issuance.

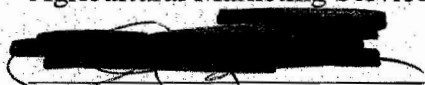
Copies hereof shall be served upon parties.


Done at Washington, D.C.

this 22nd day of June, 2007


Administrative Law Judge


Eric M. Forman
Associate Deputy Administrator
Fruit and Vegetable Programs
Agricultural Marketing Service


Christopher Young-Morales, Esq.
Attorney for Complainant


Paul T. Gentile
Attorney for Respondent

6/21/07
Date signed

6/14/07
Date signed

6-15-07
Date Signed